

STATE OF MICHIGAN
GENESEE COUNTY CIRCUIT COURT

LISA McCOMBS,

Plaintiff,

v.

Case No. 18-111998-NO
Honorable Joseph J. Farah

FAMILY DOLLAR STORES OF MICHIGAN, LLC,
a foreign for profit corporation,

Defendant.

BRIAN E. MUAWAD (P41209)
Law Offices of Brian E Muawad, P.C.
Attorney for Plaintiff
22330 Greater Mack Avenue
St. Clair Shores, MI 48080
Phone: (586) 778-8570 / Fax: (586) 778-6633
Email: muawadpcscs@sbcglobal.net

LISA T. MILTON (P38129)
Bowen, Radabaugh & Milton, P.C.
Attorney for Defendant
4967 Crooks Road, Suite 150
Troy, MI 48098
Phone: (248) 641-8486 / Fax: (248) 641-8219
Email: LTMilton@brmattorneys.com

NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT

Please see attached Notice of Removal (Exhibit A).

Respectfully submitted,

BOWEN, RADABAUGH & MILTON, P.C.

By: 

LISA T. MILTON (P38129)
Attorney for Defendant
4967 Crooks Road, Suite 150
Troy, MI 48098
(248) 641-8486
Email: LTMilton@brmattorneys.com

Dated: January 9, 2019

BOWEN, RADABAUGH & MILTON, P.C.
ATTORNEYS AND COUNSELORS
4967 Crooks Road, Suite 150
Troy, Michigan 48098
Voice 248-641-8000 Fax 248-641-8219

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LISA McCOMBS,

Plaintiff,

v.

Case No.
Honorable

FAMILY DOLLAR STORES OF MICHIGAN, LLC.,

Defendant.

BRIAN E. MUAWAD (P41209)
Law Offices of Brian E Muawad, P.C.
Attorney for Plaintiff
22330 Greater Mack Avenue
St. Clair Shores, MI 48080
P: (586) 778-8570 / F: (586) 778-6633
Email: muawadpcscs@sbcglobal.net

LISA T. MILTON (P38129)
Bowen, Radabaugh & Milton, P.C.
Attorney for Defendant
4967 Crooks Road, Suite 150
Troy, MI 48098
P: 248-641-8486 / F: 248-641-8219
Email: LTMilton@brmattorneys.com

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, the above-captioned action, which is currently pending in the Circuit Court for the County of Genesee, in the State of Michigan, is hereby removed by Defendant, Family Dollar Stores of Michigan, LLC to the United States District Court for the Eastern District of Michigan by the filing of this Notice of Removal with the Clerk of the United States District Court for the Eastern District of Michigan. As grounds for removal, Defendant states as follows:

1. There is now pending in the Genesee County Circuit Court Case No. 18-111998-NO, a civil action in which Lisa McCombs is the Plaintiff.

2. Pursuant to 28 U.S.C. § 1446(a), a complete copy of the Complaint and Demand for Trial by Jury filed in the State Court Action is attached hereto as **Exhibit A, Plaintiff's Complaint.**

3. That based on the extent of the Plaintiff's claimed injuries and the allegations as asserted in Plaintiff's Complaint, the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and cost.

4. This action now involves a controversy between citizens of different states.

a. Plaintiff is, at the time of the commencement of this action, a citizen and resident of the State of Michigan. **Exhibit A, ¶ 1.**

b. On February 10, 2016, Family Dollar Stores of Michigan, **Inc.** filed a Certificate of Conversion with the Michigan Department of Licensing and Regulatory Affairs affirming that it was converting to a foreign corporation operating out of Virginia.

c. On February 2, 2017, a Certificate of Withdrawal was filed by Family Dollar Stores of Michigan, **Inc.**, evidencing that it no longer transacts business or affairs in Michigan.

d. On February 3, 2017, Family Dollar Stores of Michigan, LLC, filed an Application for Certificate of Authority to Transact Business In Michigan.

e. The surviving corporate entity and proper Defendant, Family Dollar Stores of Michigan, LLC., is a corporation created and organized under the laws of the State of Virginia, with its principal place of business in North Carolina.

f. The sole member of Family Dollar Stores of Michigan, LLC is Family Dollar Services, LLC, a North Carolina Corporation, which is solely owned by Dollar Tree, Inc., a Virginia Corporation.

g. Dollar Tree, Inc. is a company publicly traded on the NASDAQ Stock Exchange.

5. The District Court of the United States is given original jurisdiction of this action pursuant to 28 U.S.C. § 1332. Removal is being sought pursuant to 28 U.S.C. §§ 1441 and 1446(b)(3).

6. This notice is being filed with the Court within thirty (30) days of the receipt by the Defendant of the initial pleading. The Defendant was served with the initial pleading on or about December 10, 2018. **Exhibit B.**

7. A true and correct copy of this Notice will be filed with the Clerk for the County of Genesee as provided by law.

Wherefore, Defendant, Family Dollar Stores of Michigan, LLC, respectfully requests that this matter be removed from Genesee County Circuit Court to this Court.

Respectfully submitted,

BOWEN, RADABAUGH & MILTON, P.C.

By: /s/Lisa T. Milton

LISA T. MILTON (P38129)

Attorney for Defendant

4967 Crooks Road, Suite 150

Troy, MI 48098

(248) 641-8486

Email: LTMilton@brmattorneys.com

Dated: January 9, 2019

EXHIBIT A

RECEIVED DEC 06 2018

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT 7th JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS	CASE NO. 18-111998-NO
---	----------------	--

Court address
 900 S. Saginaw St., Flint, MI 48502

JOSEPH J. FARAH
P-30439

Court telephone no.
 (810) 424-4355

Plaintiff's name(s), address(es), and telephone no(s).

LISA McCOMBS

Defendant's name(s), address(es), and telephone no(s).

FAMILY DOLLAR STORES OF MICHIGAN, L.L.C.

v

Plaintiff's attorney, bar no., address, and telephone no.

BRIAN E. MUAWAD (P41209)
 BRIAN E. MUAWAD, P.C.
 22330 Greater Mack
 Saint Clair Shores, MI 48080
 (586) 778-8570

CSC-Lawyers Incorporating Service (Company)
 601 Abbot Road
 East Lansing, MI 48822

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- ☐ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. Attached is a completed case inventory (form MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in ☐ this court, ☐ _____ Court, where

it was given case number _____ and assigned to Judge _____

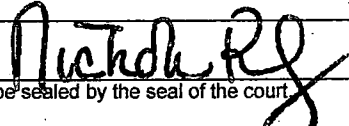
The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party or **take other lawful action with the court** (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date DEC 04 2018	Expiration date* MAR 05 2019	Court clerk 
----------------------------------	--	---

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

RECEIVED DEC 06 2018

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

LISA McCOMBS,
an individual,

Plaintiff,

vs.

FAMILY DOLLAR STORES OF MICHIGAN, L.L.C.
a foreign for profit corporation

Defendant.

Case No. 18-

-NO

HON.

JOSEPH J. FARAH
P-30439

BRIAN E. MUAWAD (P41209)
Attorney for Plaintiff
22330 Greater Mack
St. Clair Shores, MI 48080
(586) 778-8570
Fax: (586) 778-6633



COMPLAINT

There is no other pending or resolved civil action arising out
of the transaction or occurrence alleged in the Complaint.



Brian E. Muawad

NOW COMES the Plaintiff, by and through her attorney, BRIAN E. MUAWAD and
complaining against the above-named Defendant, states as follows:

COUNT I - GENERAL AVERMENTS

1. Plaintiff is a resident of the City of Flint, County of Genesee, State of
Michigan.

2. Defendant, Family Dollar Stores of Michigan, L.L.C., ("Family Dollar") is an entity which regularly conducts business or owns property in the County of Genesee and State of Michigan, and/or which is otherwise authorized to do business in the County of Genesee and State of Michigan, with its property located at: 877 E. 5th Avenue, Flint, MI, wherein the cause of action complained of arose.

3. The incident complained of herein occurred on the Defendant Family Dollar's premises, at the address indicated herein, in the County of Genesee, State of Michigan on or about December 29, 2017 and again on February 3, 2018.

4. On the time and date aforesaid, the Plaintiff was an invitee of Defendant Family Dollar and was injured on the Defendant Family Dollar's common areas and/or premises when on December 29, 2017 she slipped and fell on a clear liquid inside the store; on February 3, 2018, she slipped and fell on black ice at or near the entrance to the store; the black ice was invisible and not readily apparent to the causal observer.

5. On or about said date at said times, Defendant Family Dollar was the owner, possessor and/or otherwise in control of and/or charged with the care and maintenance of said common areas and/or premises; and on or about said date at said time, Defendant's premises were open to the general public, and the general public was invited to Defendant's premises.

6. When Plaintiff was injured at Defendant Family Dollar's premises, Plaintiff was without any knowledge of the dangerous and unsafe conditions of Defendant's premises.

7. The amount in controversy herein exceeds the sum of Twenty-Five Thousand Dollars (\$25,000).

COUNT II - NEGLIGENCE OF DEFENDANTS

8. Plaintiff realleges and incorporates by reference herein all of the preceding paragraphs as though more fully set forth herein.

9. On said dates at said times, a hazardous and dangerous condition existed on the premises of the Defendant, previously described herein, which was caused to be in existence as the result of the negligence of the Defendant; the hazards described herein were not readily apparent upon casual inspection and was unreasonably dangerous and effectively unavoidable.

10. On or about said date at said time, Defendant, its agents, servants, and/or employees owed duties to Plaintiff to maintain Defendant Family Dollar's premises as a reasonably prudent person would do under same or similar circumstances, and in accordance with the common law in such case made and provided, but violated said duties in at least one or more of the following particulars, so far as it is presently known:

- A. After knowing of the dangerous and hazardous conditions existing on Defendant Family Dollar's premises, Defendant failed to correct same and/or warn of the dangerous conditions.
- B. Failed to make reasonable and proper inspections for dangerous and/or hazardous conditions existing on Defendant Family Dollar's premises.
- C. Failed to repair and/or correct and/or warn of any hazardous and/or dangerous conditions, of which the Defendant, its agents, servants and/or employees had knowledge, or should have had knowledge, by a reasonable and proper inspection.
- D. Failed to instruct all of its agents, servants and or employees on the proper care and maintenance of its premises, and/or in the reporting of dangerous and/or hazardous conditions on Defendant Family Dollar's premises.

- E. Failed to provide rules, procedures and/or provide for periodic safety inspections for the discovery and/or correction of dangerous and hazardous conditions on Defendant Family Dollar's premises.
- F. Failed to provide a safe and suitable place for those who encountered Defendant Family Dollar's premises to walk safely.
- G. Failed to construct the premises in a manner suitable and safe under the circumstances.
- H. Failed to obtain and provide the adequate and proper maintenance and inspection of Defendant Family Dollar's premises so that same would be in a reasonably safe condition for Defendant's invitees and all others who encountered Defendant Family Dollar's premises.
- I. Failed to obtain and provide for the adequate and proper maintenance and inspection of Defendant Family Dollar's premises so that conditions would be readily apparent to invitees and/or tenants upon casual inspection and would be readily apparent to all others who encountered Defendant Family Dollar's premises.
- J. Failed to observe all the duties of care imposed upon Defendants by the statutes of the State of Michigan, Ordinances of the City in which Defendant Family Dollar's premises are located and the common law in such case made and provided.
- K. Others to be determined as discovery reveals.

11. Plaintiff sustained personal injuries as a direct and proximate result of Defendant's negligence as alleged herein.

12. As a direct and proximate result of the negligence of Defendant as aforesaid, the injured Plaintiff sustained:

- A. Severe bodily injuries to her back and the right side of her body, which were painful, disabling and necessitated medical care.
- B. Shock and emotional damage.
- C. Possible aggravation of pre-existing conditions and/or reactivation of dormant conditions;
- D. Inability to attend to the Plaintiff's usual affairs and render services as formerly.

- E. Hamperment in the enjoyment of the normal pursuit of life as before.
- F. Injuries which are permanent to the degree that Plaintiff suffered a loss in ability to earn money as before, and will have impaired earning capacity in the future, continued pain and suffering as well as permanency, all as a result of the negligence as hereinbefore alleged.
- G. Others to be determined as discovery reveals.

13. As a direct and proximate result of the negligence of Defendant and the resulting injuries to Plaintiff, the Plaintiff did and may continue to incur expenses for hospitals, doctors, x-rays, medicines and other medical supplies and attention.

14. As a direct and proximate result of the negligence of Defendant, Plaintiff has been compelled to expend and become obligated for large sums of money for medical care and treatment, and in the future, may be required to expend and become obligated for large sums of money for medical care, attention and supplies for treatment and aforesaid injuries sustained.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant Judgment against the Defendant, and award damages in whatever amount Plaintiff is found to be entitled; and for the penalties and Plaintiff's actual attorney fees, as provided for by statute, plus interest and costs.

Respectfully submitted,



BRIAN E. MUAWAD (P 41209)
Attorney for Plaintiff

Dated: November 28, 2018

SUMMONS

Case No. _____

PROOF OF SERVICE

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE☐ **OFFICER CERTIFICATE**

OR

☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

☐ I served personally a copy of the summons and complaint.

☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with _____

List all documents served with the summons and complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature _____

Name (type or print) _____

Title _____

Subscribed and sworn to before me on _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____ Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____

Attachments _____

_____ on _____
Day, date, time

Signature _____ on behalf of _____

EXHIBIT B



Notice of Service of Process

null / ALL
Transmittal Number: 19074394
Date Processed: 12/10/2018

Primary Contact: Alexandra Anable
Family Dollar Stores, Inc.
10401 Monroe Road
Matthews, NC 28105-5349

Electronic copy provided to: JJ Jacobson-Allen
Kathryn Smith
Cynthia Bertucci
Patti Ferry

Entity: Family Dollar Stores of Michigan, LLC
Entity ID Number 3697592

Entity Served: Family Dollar Stores of Michigan, L.L.C.

Title of Action: Lisa McCombs vs. Family Dollar Stores of Michigan, L.L.C.

Document(s) Type: Summons/Complaint

Nature of Action: Personal Injury

Court/Agency: Genesee County Circuit Court, MI

Case/Reference No: 18 111998-NO

Jurisdiction Served: Michigan

Date Served on CSC: 12/10/2018

Answer or Appearance Due: 28 Days

Originally Served On: CSC

How Served: Certified Mail

Sender Information: Brian E. Muawad
586-778-8570

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com